SHOOK, HARDY & BACON

STATUS REPORT
CONCERNING
THE
CENTER FOR ENVIRONMENTAL
HEALTH AND HUMAN TOXICOLOGY

April 22, 1991

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THE CENTER FOR ENVIRONMENTAL HEALTH AND HUMAN TOXICOLOGY

The Center for Environmental Health and Human Toxicology (the "Center" or "CEHHT") is located in the Georgetown University Medical Center Campus.[1] It is a separate corporate entity apparently controlled and operated by three principals, Dr. Phil Witorsch, Dr. Sorell Schwartz and Dr. Nancy Balter. Dr. Balter essentially runs the database aspect of the operation. She, in turn, employs one full-time and one or two part-time assistants, along with some graduate students, to assist with the tasks of the Center for Environmental Health. Dr. Schwartz and Dr. Witorsch do their consulting work for the industry through the Center; Dr. Balter presently is not engaged in industry-related consulting work.

James Goold states that the concept of the Center for Environmental Health goes back to the mid-1980s. He maintains that the original proposal or authorization regarding the Center for Environmental Health involvement may have been presented either to the Committee of Counsel or to the Executive Committee.[2] Dr. Balter indicates that the original database may have been sub-contracted to Myron Weinberg before being returned to the Center.

Mr. Goold indicates that the basic operating costs run approximately $4,000 per month, which are billed to the Tobacco Institute. In addition, when there are user requests made to the Center for Environmental Health those requests are charged to the user. When the user is the Tobacco Institute or Covington & Burling acting on behalf of the Tobacco Institute, those costs are also billed to the Tobacco Institute. Goold did not know whether the costs were billed on one overall billing with the monthly charge or whether they were billed separately.[3] In addition, if others

$48,000/yr

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1. The full address for the Center is Center for Environmental Health and Human Toxicology, Suite 685, 2100 Pennsylvania Avenue, N.W., Washington, D.C. 20037 (202-333-3638) (FAX: 202-333-2875).

2. William Davis reports that in the mid-1980s or later, a funding proposal was presented to the ETS Advisory Group which eventually became CIAR to fund the Center for Environmental Health database. Dr. Osdene apparently visited the Center for Environmental Health and vetoed the idea of funding on the basis that the system was essentially an index system and did not contain abstracts or analyses of articles and would not otherwise further the work of CIAR.

3. Dr. Witorsch manages the billing and other financial aspects of the Center's operations. More detailed cost information

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request user assistance of the Center for Environmental Health they are billed on a "pass through basis" essentially for the copying costs of materials that are requested. Dr. Balter indicates however that the three primary billing entities are the Tobacco Institute, Covington & Burling and Philip Morris.

There are approximately 6,000 items on the CEHHT database, although over the years approximately 6,900 accession numbers have been used. Most of the database consists of articles, although some other materials such as the public comments submitted to the Environmental Protection Agency in 1990 are also included in the database. The database contains author names, article titles, and since 1990, has also included some key word indexing. The database can be searched by author, title or key words. Dr. Balter and her staff are presently working to re-index articles received prior to 1990 to add key word indexing to those articles. A key word taxonomy for the CEHHT database is attached at TAB 1.

In order to identify articles for indexing for the database, the Center for Environmental Health (i) reviews "Current Contents," (ii) visits the National Library of Medicine in Washington, D.C. for the purpose of obtaining information on foreign titles, (iii) performs database searches, and (iv) manually researches for abstracts. The Center visits the National Library at least once a month to scan for foreign literature. On the basis of these types of examinations, the Center obtains hard copies of approximately 120 articles per month. They are indexed on the computer system and the Center retains the hard copy of the documents at the offices, and also maintains complete "back-up" file off-site.

Goold maintains that authorized users consist of any approved user within the Tobacco Institute industry "family." Authorized users can avail themselves of several levels of service. They can obtain computer disks which contain the entire database for use in their own offices on their computers. They can subscribe to or obtain a monthly printout listing article titles which are added to the database. "Users" can obtain first pages of all articles which go into the monthly computer update, and these first pages can traditionally be expected to contain abstracts of the articles. Or, finally, a "user" can request a monthly box of all the hard copies of the new literature put on the database. The CEHHT working list of current users is attached at TAB 2. In addition, John Rupp has created the "Rupp list," which receives a monthly distribution from the Center consisting of hard copies of

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could be obtained through him if more detailed information is desired.

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articles or first pages. A sample "Rupp list" distribution is attached at TAB 3.

Goold indicates that Phil Witorsch and other consultants also receive subscription services and other services from the Center for Environmental Health.

Goold maintains that Philip Morris Richmond, Philip Morris International in Lausanne and the Tobacco Institute all receive a monthly box of hard copies of new literature. He did not provide information as to how long this has been in place or as to the monthly cost. Goold indicated that Mary Ward of RJR visited the Center for Environmental Health on April 8, 1991, and he suggested that RJR will sign up to receive a monthly box of new literature. In addition, Peter Eck of Chadbourne & Parke has also contacted Goold about arranging a visit to CEHHT on April 19, 1991.

Goold maintains that the operations of CEHHT have not been undertaken with the objective that there will be work product protection. The only information contained in the database is indexing information such as the article name, the article authors, and the key words, many of which may already be designated in the article. There are no summaries or comments prepared by the staff of CEHHT.

Dr. Balter indicates, however, that each article is coded with an "importance code". DB1 is reserved for the most important articles dealing directly with ETS. Articles of lesser importance are coded accordingly. Dr. Balter essentially codes or approves the coding for all articles. The handwritten code, in turn, physically appears on the first page of each article along with the accession number (for example, DB1 5398).

Consistent with the foregoing, the use of the database at the Center is not focused upon assisting trial counsel in anticipation of litigation. In fact, usage suggests that the function and purposes are exactly the opposite. Essentially, the database at CEHHT is used by the Tobacco Institute, the Tobacco Institute consultants, and some of the companies to provide access to literature to further facilitate the business interests or needs of the industry.

Goold maintains that the domain of the articles focuses primarily upon environmental tobacco smoke. However, he indicates and Dr. Balter confirms that there is some "crossover" into articles that involve the primary issue. In addition, articles on general indoor air quality issues are obtained, indexed and kept on file.

The Center database has been using Informix software but is currently in the process of switching over to ProCite software.

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In the process of the changeover, the Center is reviewing each entry, correcting database typographical errors, eliminating duplicate entries and eliminating materials that should not be on the database.[4]

For articles, the data fields in the CEHHT literature system currently include the following:

* Author
* Country
* Title
* Source
* Date
* Level (of importance)
* Availability (hard copy on site)
* Abstract
* Key words

A copy of illustrative printouts concerning Dr. He and R.S. Chapman are attached at TAB 4.

CONCLUSION

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4. For example, there are many deposition transcripts and other materials dealing with the "anti," James Repace, who is at the EPA. This litigation-type of file material is being taken off the database.

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